



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF THE COMMISSIONER  
CN 402  
TRENTON, N.J. 08625  
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(IN THE MATTER OF CERTAIN AMENDMENTS )  
(TO THE ADOPTED AND APPROVED SOLID )  
(WASTE MANAGEMENT PLAN OF THE )  
(BERGEN COUNTY SOLID WASTE )  
(MANAGEMENT DISTRICT )

CERTIFICATION  
OF PORTIONS OF THE MAY 18, 1988  
AMENDMENT TO THE BERGEN COUNTY DISTRICT  
SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts. On October 31, 1980, the Department approved, with modifications, the Bergen County District Solid Waste Management Plan.

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by the district in meeting the solid waste management needs of the district for the ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for the ten-year period; which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements).

The Act further provides that a district may review its plan at any time and, if found inadequate, a new plan must be adopted. The Bergen County Board of Chosen Freeholders completed such a review and on May 18, 1988, adopted an amendment to its approved District Solid Waste Management Plan, County Ordinance 88-27, originally introduced April 27, 1988, which contained the following 5 sections:

Section 1: the redirection of solid waste pursuant to the March 1, 1988 Emergency Waste Flow Order, dated February 24, 1988, from all Bergen County municipalities (except North Arlington household) to the permanent baler/transfer station, facility number 0239E1SP01, located in the Boroughs of North Arlington and Lyndhurst, upon implementation. For purposes of the amendment, the permanent baler/transfer station shall include both the facility sited previously, and any transport vehicle designated by the Bergen County Utilities Authority pursuant to a duly executed public contract for transport and disposal of the solid waste;

Section 2: the inclusion of United Carting Co., Inc. Transfer Station located on Block 74, Lot 4 within the Borough of Fairview;

Section 3: the inclusion of a regional leaf composting facility located on Block 4501, Lot 1 within the Township of Teaneack and Block 2403 Lot 1 within the Village of Ridgefield Park;

Section 4: the inclusion of a small-scale incinerator within the Waldorf Plaza apartment located on Block 341, Lot 8 within the City of Hackensack; and

Section 5: the inclusion of an additional lot within an existing block for the permanent Bergen County Utilities Authority baler/transfer station in the Borough of North Arlington.

In response to the objections and comments raised at the May 18, 1988 public hearing regarding the Solid Waste Management Plan amendment, a resolution, County Ordinance 88-32, was introduced. County Ordinance 88-32 amended Ordinance 88-27, the adopted plan amendment, by deleting, without prejudice, Sections 2 and 3.

On June 8, 1988, the Department received the plan amendment and upon receipt of the public hearing transcript and additional required copies, the amendment was deemed complete on June 17, 1988. Since the Board of Freeholders was considering amending the plan amendment by deleting sections 2 and 3, those sections were held in abeyance. In addition, upon initial review of the remaining plan amendment sections (1, 4, and 5), the Department recognized a need for clarification of certain aspects of section 1 of the plan amendment. Therefore, on June 27, 1988, the Department distributed the plan amendment for state agency review, but only requested review of sections 4 and 5. On June 30, 1988, the Department sent a letter to the County requesting clarification of a portion of section 1 and sections 2 and 3 of the May 18, 1988 amendment. Specifically, the Department requested clarification as to how the County would implement the provision allowing utilization of transport vehicles as auxiliary to the transfer stations and County Ordinance 88-32 as it would modify 88-27.

On July 18, 1988, the Department received the County adoption of County Ordinance 88-32 which modified the plan amendment by deleting sections 2 and 3. On July 27, 1988, the Department sent the ordinance to the review agencies to notify them that section 2 and 3 had formally been withdrawn from the Department's consideration. No substantive comments were received. Comments were received which noted the possibility of an incorrect citation to the Block and Lots and the need to acquire a permit from the Division of

Environmental Quality for the United Carting Company, Inc. Transfer Station. In regard to the Regional Leaf Composting Facility, the Green Acres Program supported its deletion from consideration, at this time, because of the use of money from Green Acres to set aside the land, identified for use as the facility, as open space. This issue needs to be resolved before pursuing a facility at this location.

On July 21, 1988, the Department completed its state level review of section 5 of the May 18, 1988 amendment and then Commissioner Dewling certified approval of that portion of the amendment.

In a July 27, 1988 letter from the Executive Director of the Bergen County Utilities Authority, the Department received clarification of section 1 of the May 18, 1988 amendment regarding the bid selection process and the limitations that would be placed on the selected transfer station awarded baling service in the Bergen County District. Therefore, on August 19, 1988, the state agencies were notified that section 1 was being considered for review and the clarifying language was distributed.

This certification addresses only Sections 1 and 4 of the plan amendment. Sections 2 and 3 were withdrawn from the Department's consideration by County Ordinance 88-32, which modified the County plan amendment by deleting those sections from the plan amendment. Section 5 was certified in an earlier plan amendment.

The Department has reviewed the remaining portions of the May 18, 1988 amendment, Sections 1 and 4, as well as the entire Bergen County District Solid Waste Management Plan, and has determined that the remaining portions of the amendment, Sections 1 and 4, adopted by the Bergen County Board of Chosen Freeholders on May 18, 1988, are approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

B. Findings and Conclusions with Respect to the Bergen County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Christopher J. Daggett, Acting Commissioner of the Department of Environmental Protection have studied and reviewed the remaining portions, Sections 1 and 4, of the May 18, 1988, amendment to the Bergen County District Solid Waste Management Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that the approved remaining portions, Sections 1 and 4 of this plan amendment are consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24.(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department of Environmental Protection as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Department of Agriculture, and the Department of Transportation. Of these agencies,

the following did not object to the proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Fish, Game and Wildlife, Parks and Forestry, Green Acres and Coastal Resources; the State Department of Agriculture; the Board of Public Utilities; and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Departments of Health, Community Affairs and the Public Advocate; and the U.S. Environmental Protection Agency. The Division of Solid Waste Management and the Department of Transportation submitted substantive comments which are addressed below.

The Division of Solid Waste Management commented on Sections 1 and 4 of the plan amendment as follows:

Bergen County, in consultation with the Office of Recycling, must establish a detailed incoming waste inspection plan. Said plan shall be used to insure that the materials designated to be source separated, as per the Bergen County district recycling plan, shall not be disposed of as solid waste at the BCUA permanent baler/transfer station facility. Said plan shall include, at a minimum:

- a. the establishment of threshold levels of designated recyclables in loads of waste accepted at the facility (the Office of Recycling recommends a threshold level of 20% by volume);
- b. the manner and frequency of inspections to determine compliance with the above requirement;
- c. the permittee or county actions to be taken against solid waste collector/haulers in the event that greater than threshold levels of designated recyclables are deposited at the facility in loads of waste; and
- d. the recordkeeping procedures to be instituted relative to the above.

In addition, the Division of Solid Waste Management noted that the Bergen County District Recycling Plan was adopted by the Bergen County Freeholders on January 27, 1988 and certified by the Department of Environmental Protection with modifications on July 1, 1988. Modifications to the Bergen County District Recycling Plan, as required by the July 1, 1988 certification of the district recycling plan, were due to the Department on September 14, 1988. The Division has not received the necessary modification submissions as of this writing. In addition, the Recycling Plan was found to be deficient with regard to the composting of leaves. Leaves are not to be directed to the Bergen County Utilities Authority baler/transfer station facility number 0239E1SP01.

In response, the Department is directing Bergen County, in Section C. of this certification, to address the deficiencies identified in the county recycling plan by the Division of Solid Waste Management. In addition, the Department is directing the Bergen County Utilities Authority to submit modifications to its facility Operations and Maintenance Manual for review and subsequent approval upon completion of the review process, which

implements actions to insure compliance with the goals and mandates of the Bergen County Recycling Plan.

Further, the Division reviewed Section 1 of the proposed plan amendment in regard to the portion stating that the permanent baler/transfer station, facility number 0239ES1SP01, includes any transport vehicle designated by the Bergen County Utilities Authority pursuant to a duly executed public contract for transport and disposal of solid waste and this amendment's impact on the control and enforcement of solid waste flow in Bergen County. Upon evaluation, by the Division, it was determined that the amendment, as presently proposed, would result in a problem in regard to control of the solid waste direction within the district, and would make enforcement of the solid waste flow difficult.

In light of the present structure of the amendment, which would create a potentially uncontrolled structure for waste flow direction and make ultimate enforcement of the waste flow within the district difficult, this portion of Section 1 is rejected in part as detailed below in Section C. Should Bergen County desire to pursue this option, the Department will consider a proposed amendment which details the mechanisms to be used to modify the existing waste flow and the procedures to be implemented to enforce the waste flow redirections. Further, in support of the Department's position to reject in part a portion of section 1 of the proposed plan amendment, the Bergen County Utilities Authority, in a letter to the Department, dated August 24, 1988, requested that the Department withdraw its request for the waste flow plan amendment in regard to the transfer vehicles. It was determined by the Bergen County Utilities Authority, upon evaluation of the bids, as received in response to bid documents under contract 88-18, Baling of Solid Waste, that the provisions of baling services were not cost effective to the Authority and as such all bids were rejected.

The New Jersey Department of Transportation commented that they will require the submission of a detailed traffic report for the BCUA permanent baler/transfer station facility. The traffic report should evaluate the existing traffic flow on State highway systems and traffic impacts generated by the facility. It should include a map which shows all routes used by vehicles entering and exiting the site during peak a.m. and p.m. traffic hours. The traffic report must contain all traffic volumes as well as traffic patterns generated by existing and proposed adjoining facilities. It must also include the level of service on the roadway during the a.m. and p.m. traffic conditions.

In response to this request for submission of a traffic report, it is noted that the Department requires the submission of a traffic report as delineated in the Master Performance Permit (MPP) issued to the Bergen County Utilities Authority on January 25, 1988, as modified on July 27, 1988. Condition 22 of the MPP specifically requires the submission of a Supplemental Traffic Study. To the extent necessary, the Bergen County Utilities Authority is hereby directed to modify the submittal of the traffic report to respond to the concerns raised by the Department of Transportation. As part of the permit review process of the traffic study, the Department of Transportation will be included in the decision-making process to insure that the concerns raised are adequately addressed.

C. Certification of Bergen County District Solid Waste Management Plan Amendment

I, Christopher J. Daggett, Acting Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans, have reviewed the remaining portions, Sections 1 and 4 of the May 18, 1988, amendment to the approved Bergen County District Solid Waste Management Plan and certify to the Bergen County Board of Chosen Freeholders that the remaining portions, Sections 1 and 4, of the May 18, 1988 plan amendment are approved in part and rejected in part as further specified below.

The portion of Section 1 of the May 18, 1988 plan amendment, which directs all solid waste generated within Bergen County (with the exception of asbestos and asbestos containing materials and type 10 waste from North Arlington) to the permanent Bergen County Utilities Authority Transfer Station, when implemented, is approved.

The portion of Section 1 of the amendment which states "For the purpose of this Amendment, the permanent baler facility shall include both the facility sited previously, as amended herein, and any transport vehicles designated by the Bergen County Utilities Authority pursuant to a duly executed public contract for transport and disposal of solid waste", is rejected.

Section 4 - The inclusion of a small-scale incinerator within the Waldorf Plaza Apartments located on Block 341, Lot 8 within the City of Hackensack is approved.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. Issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126 et seq.

In addition, as noted in Section B. above, the Department, on July 1, 1988, certified with modification the District Recycling Plan adopted by the Bergen County Freeholders on January 27, 1988. Modifications to the Bergen County Recycling Plan, as required in the July 1, 1988 certification, were due to the Department on September 14, 1988. In order to address the deficiencies as noted in the county recycling plan, Bergen County is hereby directed to resolve the noted deficiencies in Section B. above.

Finally, the Department has reviewed the entire Bergen County District Solid Waste Management Plan, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:

1. N.J.S.A. 13:1E-21b(3) requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the

actual and projected amounts of solid waste contained in the report accompanying the plan.

Bergen County has sited a sanitary landfill for the residual, unprocessable and by-pass waste, within the Bergen County District Plan, pursuant to the March 17, 1988 certification of the October 7, 1988 plan amendment. However, the Department is concerned, as expressed during the Bergen County Resource Recovery Facility permit review, about the timely completion of this facility. Bergen County is hereby directed to develop an implementation schedule for the construction and operation of its residual, unprocessable and by-pass waste sanitary landfill for submission to the Department for review and approval, as soon as possible.

2. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities.

The Department is presently in the process of reviewing the traffic report for the Bergen County Utilities Authority permanent baler/transfer station as noted in Section B. above. However, as expressed during the baler/transfer station permit review, the Department requires the establishment of mandatory truck routes within the district plan for district facilities. Bergen County is hereby directed to develop mandatory truck routes for vehicles accessing and exiting the baler/transfer station and submit to the Department as a proposed amendment to the district plan, as soon as possible.

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with the within amendment to the Bergen County District Solid Waste Management Plan and which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the Department of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the Bergen County District Solid Waste Management Plan if such renegotiation is not completed within ninety (90) days of the effective date of this amendment; provided, however, that any such registrant may, upon application to the Department of Environmental Protection, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Bergen County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Bergen County District Solid Waste Management Plan. Any facility operator or collector/hauler who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26, and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department of Environmental Protection and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9, and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plans

The provisions of the Bergen County District Solid Waste Management Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-1.4 and 2.13 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. Also, all non-hazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of the Approved Portions of the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Bergen County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved portions of the amendment contained herein.

5. Definitions

For the purpose of this amendment and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-1.4 and 2.13.

6. Effective Date of Amendment

The approved portions of the amendment to the Bergen County District Solid Waste Management Plan contained herein shall take effect immediately.

7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department of Environmental Protection pursuant to its authority under the law. The Bergen County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The




Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval in Part and Rejection in Part of the Amendment and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve in part and reject in part the remaining portions, Sections 1 and 4 of the plan amendment to the Bergen County District Solid Waste Management Plan which was adopted by the Bergen County Board of Chosen Freeholders on May 18, 1988, as outlined in Section C. of this certification. I also direct the Bergen County Freeholders to resolve the remaining deficiencies in the Bergen County Solid Waste Management Plan as outlined in Section C. above.

November 14, 1988  
DATE

  
CHRISTOPHER J. DAGGETT  
ACTING COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION